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## A LETTER from Scotland, &c.

SIR,

**I**Congratulate your being elected again for this ensuing Parliament, and I am very glad to understand that there is so good an Agreement amongst you, which I heartily wish you may improve to the Advantage of our Affairs, both abroad and at home; you are very obliging, so kindly to remember our last Winter's Friendship and Conversation; and that you may see I have not been unmindful of my Promise, receive hereby my Thoughts and Opinion at large, upon that Material Point of our Peers eldest Sons Incapacity to represent our Commons in Parliament, which Being a Matter of the greatest Moment to the very Constitution and being of a House of Commons, I hope you will be at some Pains to inform your Friends most particularly about it.

Do then but turn over to an Act of the Scots Parliament, engrossed in the Body of the Union-Bill, intituled, *Act settling the manner of electing Sixteen Peers and forty five Commoners to represent Scotland in the Parliament of Great Britain*; the Act declares in these Words, *viz.* " That none shall be capable to elect or be elected to represent a Shire or Burgh in the Parliament of Great Britain, for this Part of the united Kingdom, except such as are now capable to elect or be elected, as Commissioners for Shires or Burghs to the Parliament of Scotland. From which it evidently follows, that our Peers eldest Sons cannot sit in the House of Commons of Great Britain for this Part of the united Kingdom, unless it do appear that they were capable to be elected, and to sit as Members of the Parliament of Scotland: But as a clear Proof and Testi-

mony that they never were nor could be in any such Capacity, there is not one Instance of it to be found upon the Records of Parliament; but on the contrary, many repeated Instances of their being always rejected by the House, whereof two of the latest, extracted from the Records, and subscribed by the Lord Clerk Register himself, who is a Peer and a present Minister of State, are, (as I am informed) sent up to *London*: And of which I have subjoined to this a Copy. Thus far it is plain, that the Parliament of *Scotland* has ever excluded their Peers eldest Sons from being Members of their House; and that the Fundamental Law of the Union has most expressly referred to our Commons, that valuable Privilege of electing their Representatives in Parliament, from amongst the best qualified Gentlemen of their own Number and State, in the same manner as they have formerly used to do; so that we have not only Law and clear Matter of Fact upon our side, but likewise the Procedure will justify it self from the very Nature of the thing.

For it is certain, that in electing Members of Parliament, the Choice of the Electors ought to be made as free as is possible from the Influence of Bribes or Threats, and in Justice should only be determined by the Honesty and Candor of the Person to be chosen, that his Character be such as promises a faithful Discharge of so great a Trust. And that his Inclinations be accompanied with a sufficient Capacity to serve the particular Interest of his Constituents, as well as the general Interest of his Country. But alas! how many in *Scotland* can be supposed in a Condition to maintain this Character, the whole Commons there being every where surrounded with a numerous and powerful Peerage? who, like so many Sovereigns, judge and determine within their respective Bounds in Criminal as well as Civil Matters, being indued with vast Superiorities and heritable Jurisdictions,\* so that no Commoner holding any part of his Lands of a Peer, or indeed being in his Neighbourhood, can be reckon'd as at Liberty to make a free Election of his Representative. Who then can say, but that

\* Vid. *Sir George Mackenzie's Instit.* Part 2.

the Commons of *Scotland*, whereof the Majority of their Parliament consisted, had invincible Arguments for continuing and preserving intire to themselves, that necessary Privilege of excluding their Peers eldest Sons from being Members of that House?

And if the Parliament of *Scotland*, which consisted of Peers and Commoners sitting together in the same House, enjoying the same Liberty of Speech, and the same common Privileges, and judicative Capacity, as Members of one and the same House, being also thereby restricted to the same Rules, Forms and Constitution; If, I say, the Parliament of *Scotland* had so many weighty Reasons for excluding their Peers eldest Sons, how many more Arguments of greater Moment may be urged in the House of Commons of *Great Britain*, who subsist a separate and distinct House from the Peers, enjoying by themselves so many valuable Privileges and Immunities as can't be any manner of way incroached upon, or subjected to a House of Peers, but with the great Risque of shaking the whole Constitution and Government? Moreover, now that we are united, and our Interests thereby inseparably joined, what can your Commons propose by inflaving ours, for it ought certainly to be a Maxim with all true Brittains, as it ever will be a Truth, that the Liberty of our Commons will always be an Advantage to yours, and that our Slavery cannot fail to end in your Destruction?

Were we insisting upon any thing that was new, or that required a Law to invest us with it, there might be some sort of Pretence to delay or reject our Claim; but it is so far otherways, That the Privilege of Exclusion against our Peers eldest Sons, is an essential Privilege that has been carefully transmitted to us entire from our Ancestors for Ages past, and such an one it is, as under the heavy Burden of our Superiorities and heritable Jurisdictions, we never could nor ever shall be represented in Parliament without it. Last of all, it is a Privilege so expressly reserved by the foresaid Act, and ingrossed in

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the very Body of the Union, that nothing can be more firmly secured or established by Law.

Laying aside therefore all Faction or Party wherein this ought not, nor cannot have any share ; let me conjure you as you love your Country, and therein more especially that great Bulwark of the People's Liberties, I mean the Constitution of the House of Commons, be sure carefully to weigh this Matter, and to represent the Case as it really stands to your Friends of the House, who, if they once but understood the thing, will not, I am confident, be so easily *Peer-ridden*, as to present the House of Lords with 45 of their Members, in whose Places they must expect to receive so many of their Lordships Creatures.

**I**N the Parliament holden at Edinburgh, the twenty third Day of April, one thousand six hundred four score five Years. In respect the Viscount of Tarbat's Eldest Son, who was Elected one of the Commissioners for the Shire of Ross, by reason that his Father is Nobilitat, cannot now Represent that Shire, as one of their Commissioners; Warrant was given to the Freeholders of that Shire to meet and Elect another fit Person in his Place. Extracted furth of the Records of Parliament, by me David, Earl of Glasgow, Lord Clerk-Register.

Sic Subscribitur,

**G L A S G O W, Cl. Regr.**

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**A**T Edinburgh, the eighteenth Day of March, one thousand six hundred and eighty nine Years, the Meeting of the Estates having heard and considered the Report of the Committee for Elections, bearing, That in the controverted Elections for the Burgh of Linlithgow, in Favors of the Lord Livingston, and William Higgins : It is the Opinion of the Committee, That William Higgins's Commission ought to be preferred first, in regard of the Lord Livingston's Incapacity to represent a Burgh ; being the Eldest Son of a Peer : And, Secondly, In respect William Higgins was more legally and formally Elected by the Plurality of Votes of the Burgesses : They have approved, and approves the said Report in both Heads thereof, and interpones their Authority thereto. Extracted furth of the Records of Parliament, by me David Earl of Glasgow, Lord Clerk-Register.

Sic Subscribitur,

GLASGOW, Cl. Regr.

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